

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SAM MARSHALL

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Plaintiff,

VS.

Case No. 4:13CV113

BANK OF AMERICA

Defendant.

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On February 14, 2014, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant Bank of America, N.A.'s Motion to Dismiss (Dkt. 5) be GRANTED in part, that Defendant Bank of America N.A.'s Motion for Summary Judgment (Dkt. 18) be GRANTED as to all remaining claims, that Plaintiff take nothing by any of his claims here, that costs be awarded to Defendant, and that this matter be closed on the court's docket.

The court has made a *de novo* review of *pro se* Plaintiff's objections, as well as Defendant's response, and is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit as to the ultimate findings of the Magistrate Judge. The court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court.

Therefore, Defendant Bank of America, N.A.'s Motion to Dismiss (Dkt. 5) is GRANTED as to Plaintiff's DTPA claim, Plaintiff's FTC Act claim, Plaintiff's fraud claim, Plaintiff's claim of "intentional interference with advantage," and Plaintiff's claim under TILA, and those claims are dismissed. Defendant Bank of America N.A.'s Motion for Summary Judgment (Dkt. 18) is GRANTED as to Plaintiff's remaining claims of breach of contract, unjust enrichment and "economic and mental anguish," and Plaintiff shall take nothing by any of his claims here.

This matter shall be closed on the court's docket, and costs will be awarded to Defendant.

IT IS SO ORDERED.

SIGNED this the 28th day of March, 2014.



RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE